

South Australia

Harbors and Navigation Variation Regulations 2004

under the *Harbors and Navigation Act 1993*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Harbors and Navigation Variation Regulations 2004*.

2—Commencement

These regulations will come into operation on 1 December 2004.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Harbors and Navigation Regulations 1994*

4—Variation of regulation 73—Special permits for recreational vessels: section 47(3) and (4)

Regulation 73(5), penalty provision—after the existing penalty insert:

Expiation fee: \$105.

5—Variation of regulation 74A—Issue of temporary Boat Operator's Licence

(1) Regulation 74A(1)(a)—delete paragraph (a)

(2) Regulation 74A—after subregulation (1) insert:

(1a) A temporary Boat Operator's Licence may be issued subject to such conditions as the CEO thinks fit.

(1b) If the holder of a temporary Boat Operator's Licence contravenes or fails to comply with a condition of the Licence, he or she is guilty of an offence.

Maximum penalty: \$750

Expiation fee: \$105.

(3) Regulation 74A(2)(a)—delete "of 2 weeks" and substitute:
of one month

6—Variation of regulation 100—Grant of registration

(1) Regulation 100(1a)(b)—delete paragraph (b) and substitute:

(b) grant an application to transfer the registration of a recreational vessel fitted with an engine or to re-register a recreational vessel fitted with an engine,

(2) Regulation 100—after subregulation (1a) insert:

(1b) Where more than one person is registered as the owner of a recreational vessel fitted with an engine and an application is made to transfer the registration to one or more of those registered owners or to re-register the vessel in the name of one or more of those registered owners, subsection (1a) does not apply.

7—Variation of regulation 106—Transfer of registration

(1) Regulation 106(2)(c)—before "must" insert:
subject to subregulation (2a),

(2) Regulation 106—after subregulation (2) insert:

- (2a) Without limiting the power of the CEO to waive or reduce fees in accordance with Schedule 14, the CEO must, where he or she is satisfied that an application for transfer of registration of a vessel has been lodged only for the purpose of transferring registration of the vessel into the name of one or more of the vessel's joint owners following the death of a joint owner of the vessel, waive the fee fixed by Schedule 14 in respect of the application.

8—Variation of regulation 126—Navigation at sea

(1) Regulation 126(2)—delete "(but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated without the owner's consent)"

(2) Regulation 126—after subregulation (2) insert:

(3) If—

- (a) a vessel fitted with navigation lights is operated in any part of the jurisdiction (other than inland waters); and
- (b) the navigation lights are not fitted and exhibited in accordance with the *Prevention of Collisions at Sea Regulations*,

the owner of the vessel, and the master or operator of the vessel, are each guilty of an offence.

Maximum penalty: \$4 000

Expiation fee: \$300.

- (4) It is a defence to a charge of an offence against this regulation brought against the owner for the owner to prove that the vessel was operated without the owner's consent.

9—Variation of regulation 127—Navigation in inland waters

(1) Regulation 127(2)—delete "(but it is a defence to a charge of such an offence brought against the owner for the owner to prove that the vessel was operated without the owner's consent)"

(2) Regulation 127—after subregulation (2) insert:

(3) If—

- (a) a vessel fitted with navigation lights is operated in inland waters; and
- (b) the navigation lights are not fitted and exhibited in accordance with section 17 of the Code (*River Murray Traffic Regulations*),

the owner of the vessel, and the master or operator of the vessel, are each guilty of an offence.

Maximum penalty: \$4 000

Expiation fee: \$300.

- (4) It is a defence to a charge of an offence against this regulation brought against the owner for the owner to prove that the vessel was operated without the owner's consent.

10—Variation of regulation 128—Navigation in rivers and channels

Regulation 128(2) to (7)—after each penalty provision insert:

Expiation fee: \$300.

11—Variation of Schedule 3—Definition of harbors

Schedule 3, entry relating to Ardrossan—delete "BHP jetty" and substitute:

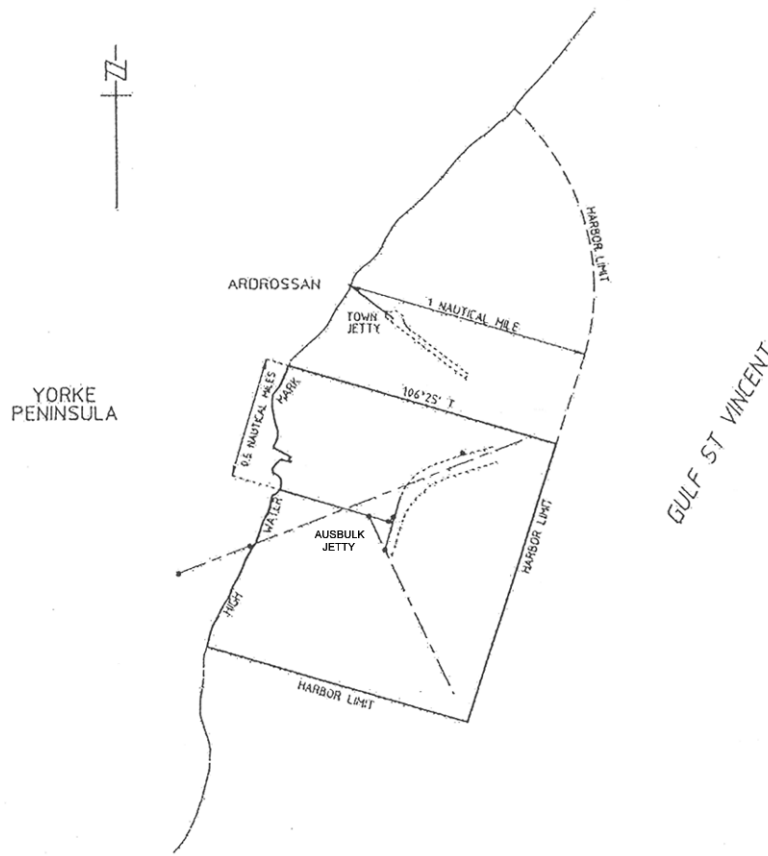
Ausbulk jetty

12—Variation of Schedule 3A—Ports

- (1) Schedule 3A, entry relating to Ardrossan—delete "BHP jetty" and substitute:

Ausbulk jetty

- (2) Schedule 3A, entry relating to Ardrossan—delete the map and substitute:



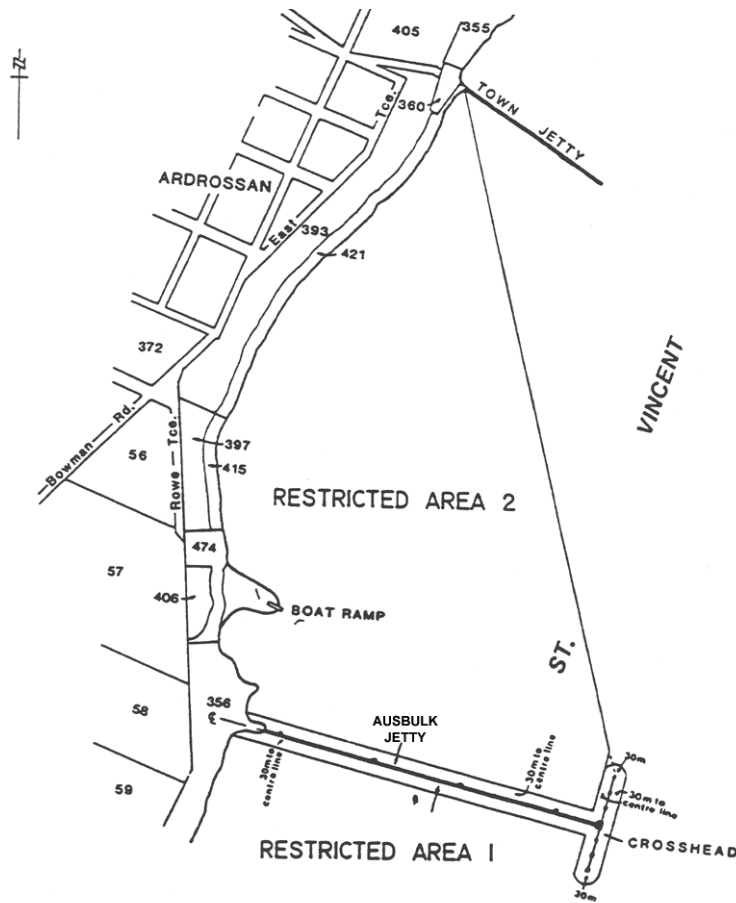
13—Variation of Schedule 4—Restricted areas—controls (Part 4)

- (1) Schedule 4, clause 1(2)—after the item numbered 8 insert:
- 8A. A person must not operate a vessel fitted with an engine in the specified waters during the period between 1 October and 1 April (inclusive) in any year.
- (2) Schedule 4, clause 1(2)—after the item numbered 9 insert:
- 9A. A person must not leave any fishing apparatus unattended in the specified waters.
- (3) Schedule 4, clause 2, entry relating to Point Turton—delete the entry and substitute:
- | | |
|---------------------|------------------|
| Point Turton Area 1 | Controls 1 and 4 |
| Point Turton Area 2 | Control 2 |
| Port Adelaide | Control 9A |
- (4) Schedule 4, clause 2—after the entry in the table relating to Porter Bay insert:
- | | |
|-------------|-----------|
| Port Hughes | Control 6 |
|-------------|-----------|
- (5) Schedule 4, clause 2, entry relating to Port Vincent Area 2—delete "Controls 1, 4 and 10" and substitute:
- Control 8A
- (6) Schedule 4, clause 2—after the entry in the table relating to Victor Harbor insert:
- | | |
|---------------------|---------------------|
| Wallaroo Bay Area 1 | Controls 2, 4 and 6 |
| Wallaroo Bay Area 2 | Controls 1 and 4 |
- (7) Schedule 4, clause 2—after the entry in the table relating to Whyalla Area 2 insert:
- | | |
|-----------------------|------------------|
| Whyalla Areas 4 and 5 | Controls 1 and 4 |
| Yatco Lagoon | Control 2 |
- (8) Schedule 4, clause 3—delete "and to Port Stanvac Areas 1 and 2" and substitute:
- , Port Stanvac Areas 1 and 2 and Whyalla Areas 4 and 5

14—Variation of Schedule 5—Restricted areas—delineation

- (1) Schedule 5, entry relating to Ardrossan—delete "B.H.P. loading jetty" wherever occurring and substitute in each case:
- Ausbulk jetty

- (2) Schedule 5, entry relating to Ardrossan—delete the plan and substitute:



- (3) Schedule 5, entry relating to Goolwa, Area 2—delete "ferry crossing" and substitute:

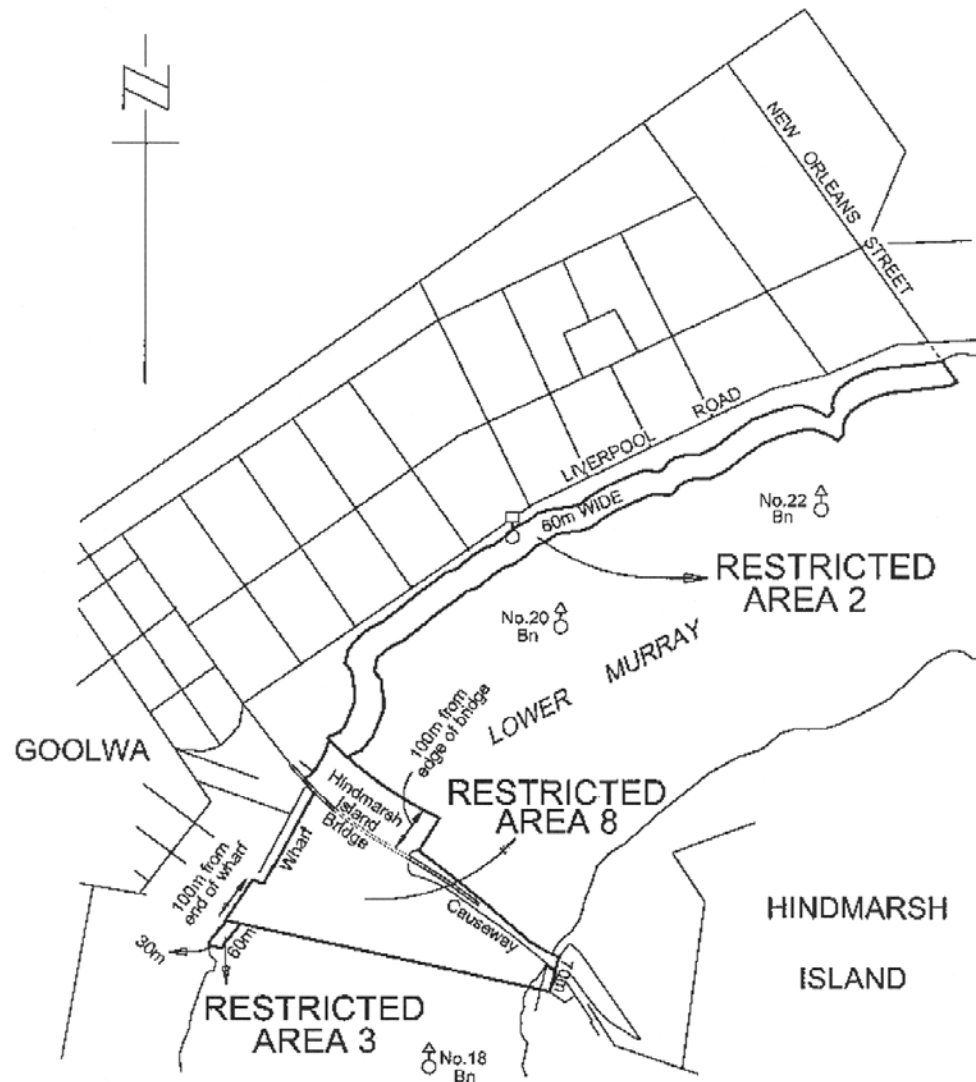
Hindmarsh Island Bridge

- (4) Schedule 5, entry relating to Goolwa, Area 8—delete the entry relating to Goolwa, Area 8 and substitute:

Area 8: the portion of the River Murray at Goolwa bounded as follows:

- on the south by a straight line from a point on the edge of the water at Goolwa 100 metres downstream from the southern end of the Goolwa wharf to a point on the western side of Hindmarsh Island, 70 metres south of the northern corner of the Hindmarsh Island end of the causeway;
- on the east by the edge of the water on the western side of Hindmarsh Island;
- on the north by a line from a point on the edge of the water at Goolwa 100 metres upstream from the northern face of the Hindmarsh Island Bridge, then parallel to the northern face of the Bridge to the point at which that line intersects a line perpendicular to the Bridge extending from the tip of the causeway in a generally north-easterly direction, then along the latter line to the tip of the causeway, then along the northern face of the causeway;

- on the west by the face of the Goolwa wharf and the edge of the water.
- (5) Schedule 5, entry relating to Goolwa, plan showing restricted areas 2, 3 and 8—delete the plan and substitute:



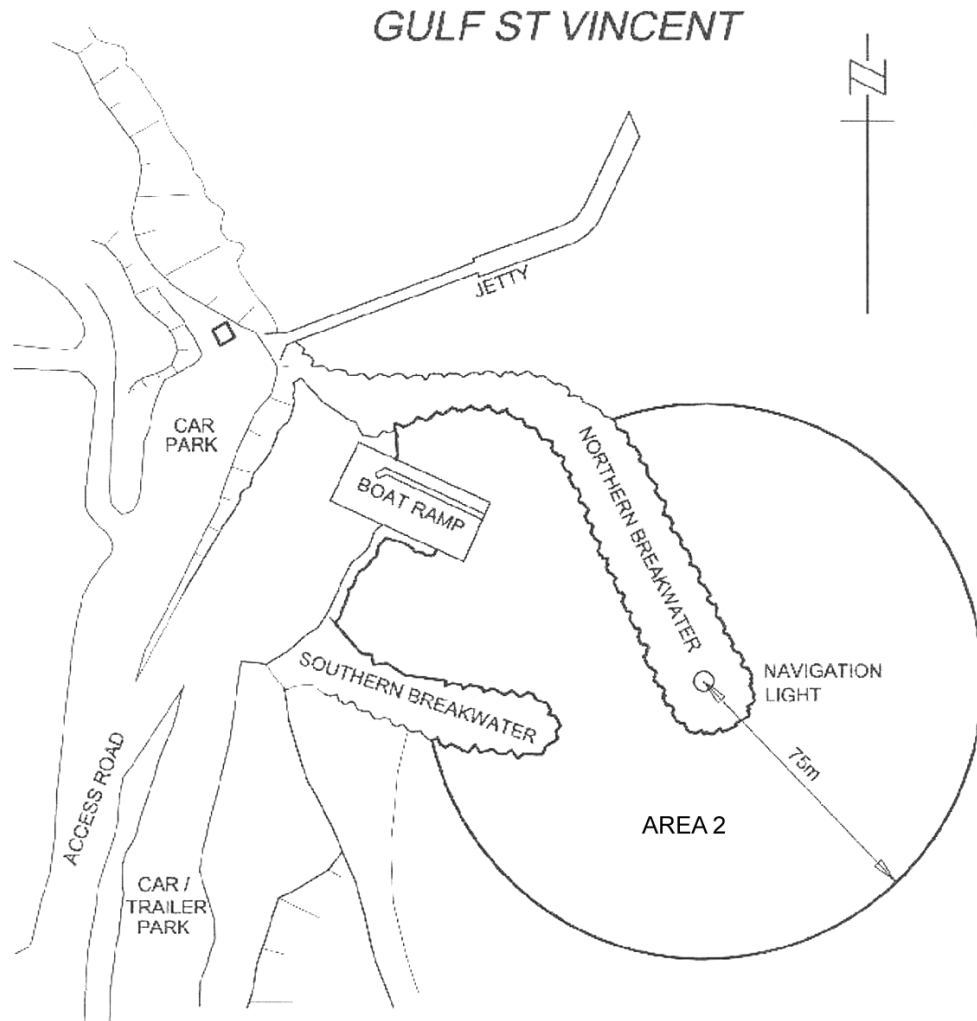
- (6) Schedule 5, entry relating to Point Turton—before "The portion" insert:

Area 1:

- (7) Schedule 5, entry relating to Point Turton—after the existing entry insert:

Area 2: The portion of the waters of Gulf of St Vincent described as "Area 2" on the plan below:

(8) Schedule 5, entry relating to Point Turton—after the plan insert:



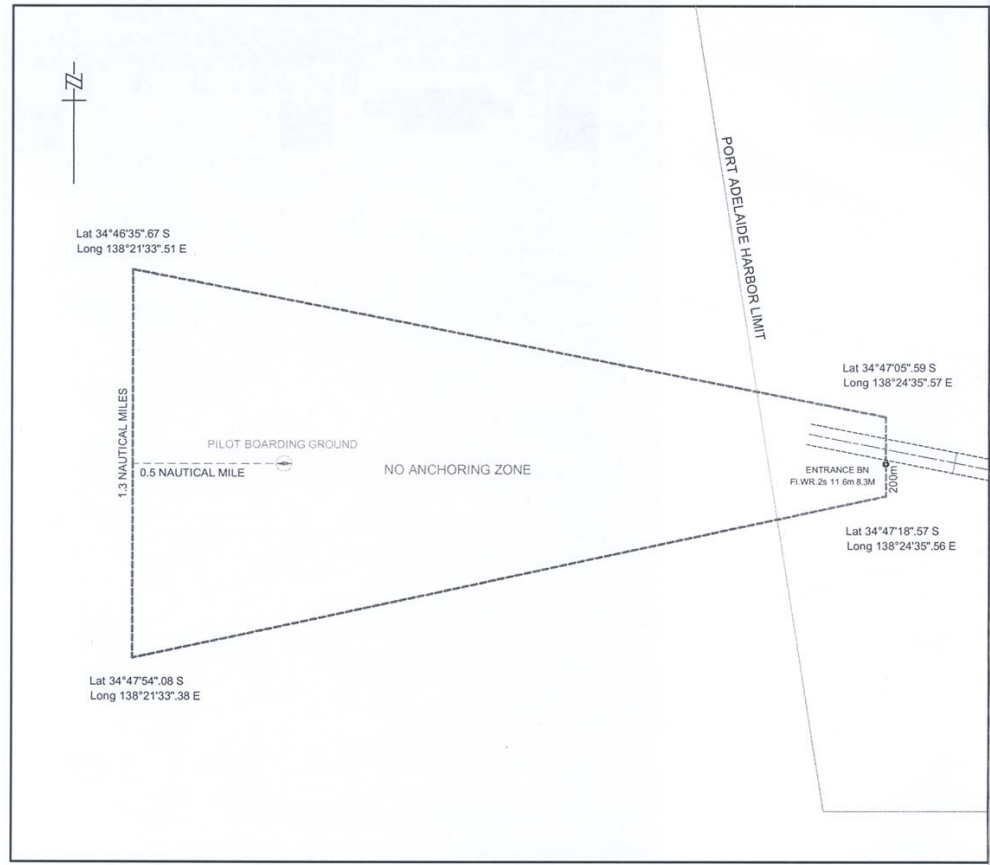
(9) Schedule 5—after the entry relating to Point Turton insert:

Port Adelaide

The portion of the sea at Port Adelaide bounded as follows:

- on the north by a straight line commencing at a point at latitude 34°46'35".67 south, longitude 138°21'33".51 east and extending to a point at latitude 34°47'05".59 south, longitude 138°24'35".57 east;
- on the east by a straight line commencing at a point at latitude 34°47'05".59 south, longitude 138°24'35".57 east and extending to a point at latitude 34°47'18".57 south, longitude 138°24'35".56 east;
- on the south by a straight line commencing at a point at latitude 34°47'18".57 south, longitude 138°24'35".56 east and extending to a point at latitude 34°47'54".08 south, longitude 138°21'33".38 east;

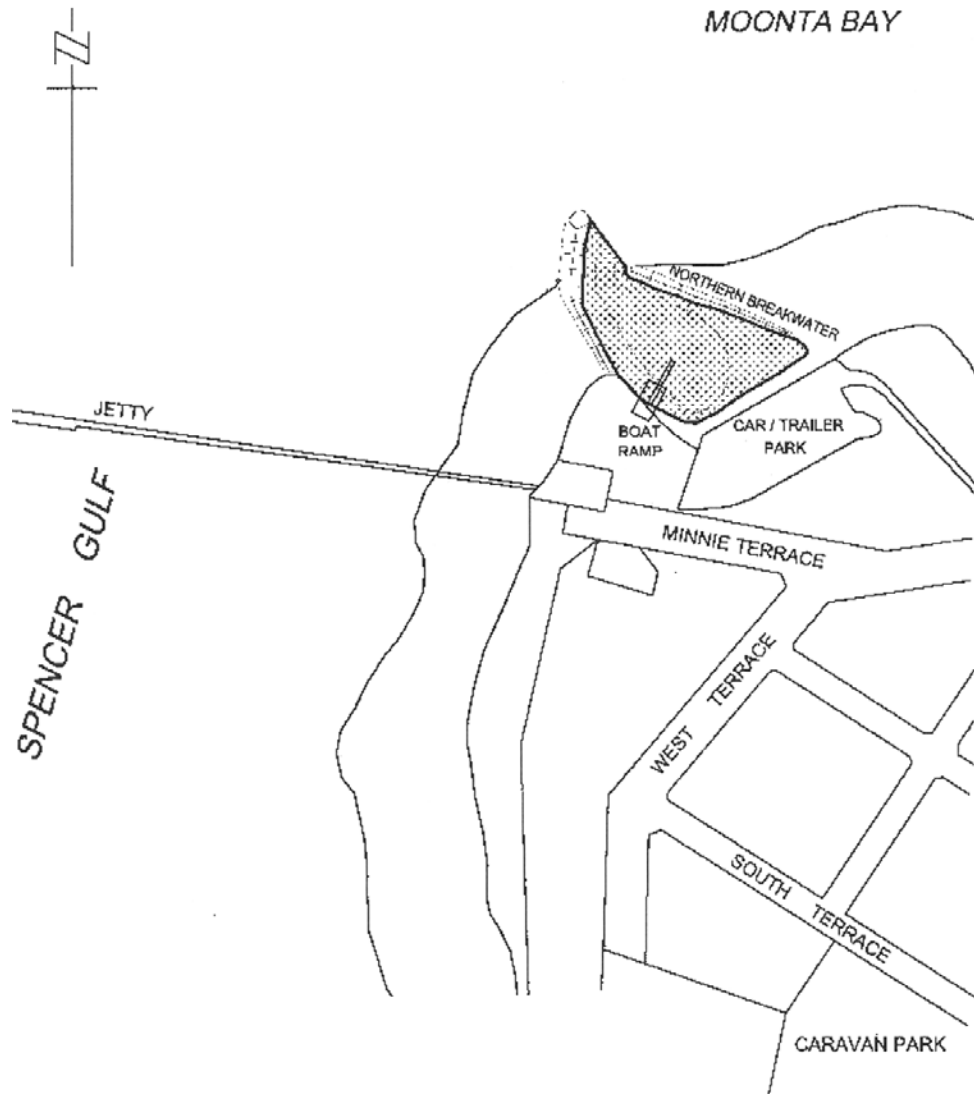
- on the west by a straight line commencing at a point at latitude $34^{\circ}47'54''.08$ south, longitude $138^{\circ}21'33''.38$ east and extending to a point at latitude $34^{\circ}46'35''.67$ south, longitude $138^{\circ}21'33''.51$ east.



- (10) Schedule 5—after the entry relating to Porter Bay insert:

Port Hughes

The portion of the waters of the sea at Port Hughes within the Moonta Bay boat ramp basin, landward of the northern and southern breakwater (shown as a shaded area on the plan below).

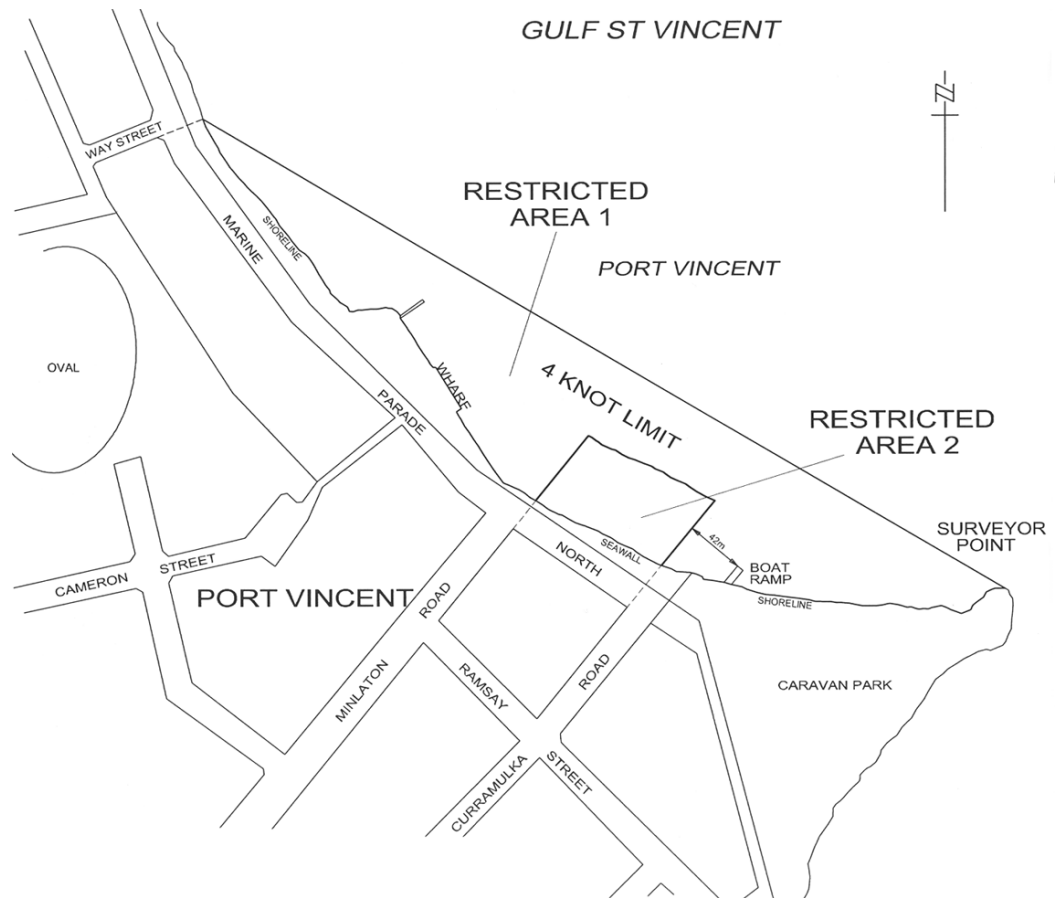


- (11) Schedule 5, entry relating to Port Vincent—delete the entry relating to Port Vincent Area 2 and the plan following that entry and substitute:

Area 2: the portion of the waters of Gulf St. Vincent at Port Vincent bounded as follows:

- on the north-west by a straight line being the prolongation seaward of the south-eastern boundary of Main Street;
- on the north-east by a line 60 metres seaward of, and parallel to, the sea wall;
- on the south-east by a straight line being the prolongation seaward of the north-western boundary of Curramulka Road;

- on the south-west by the edge of the water.

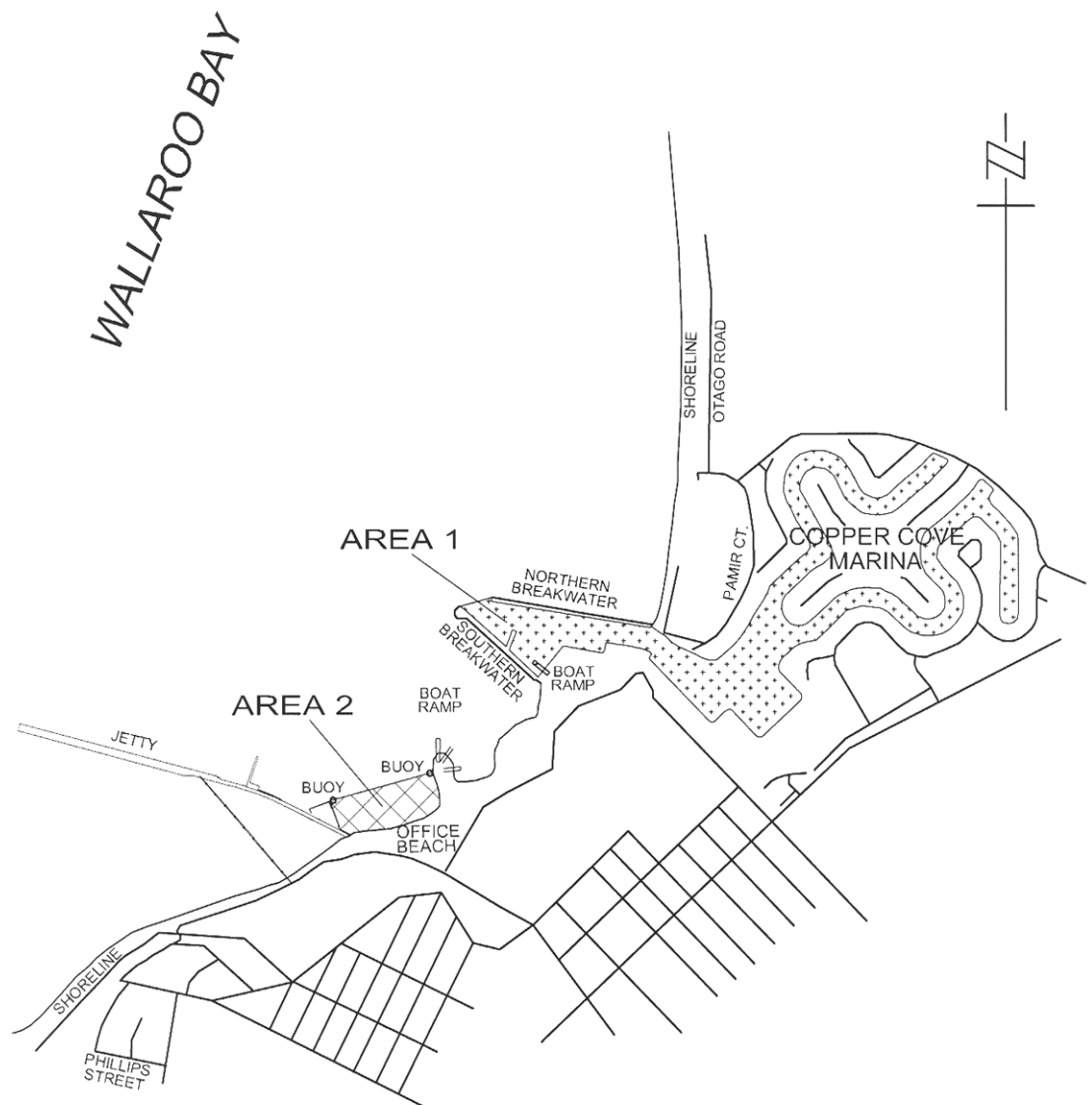


(12) Schedule 5—after the entry relating to Victor Harbor insert:

Wallaroo Bay

Area 1: The portion of the waters of the sea at Wallaroo described as "Area 1" on the plan below.

Area 2: The portion of the waters of the sea at Wallaroo described as "Area 2" on the plan below.

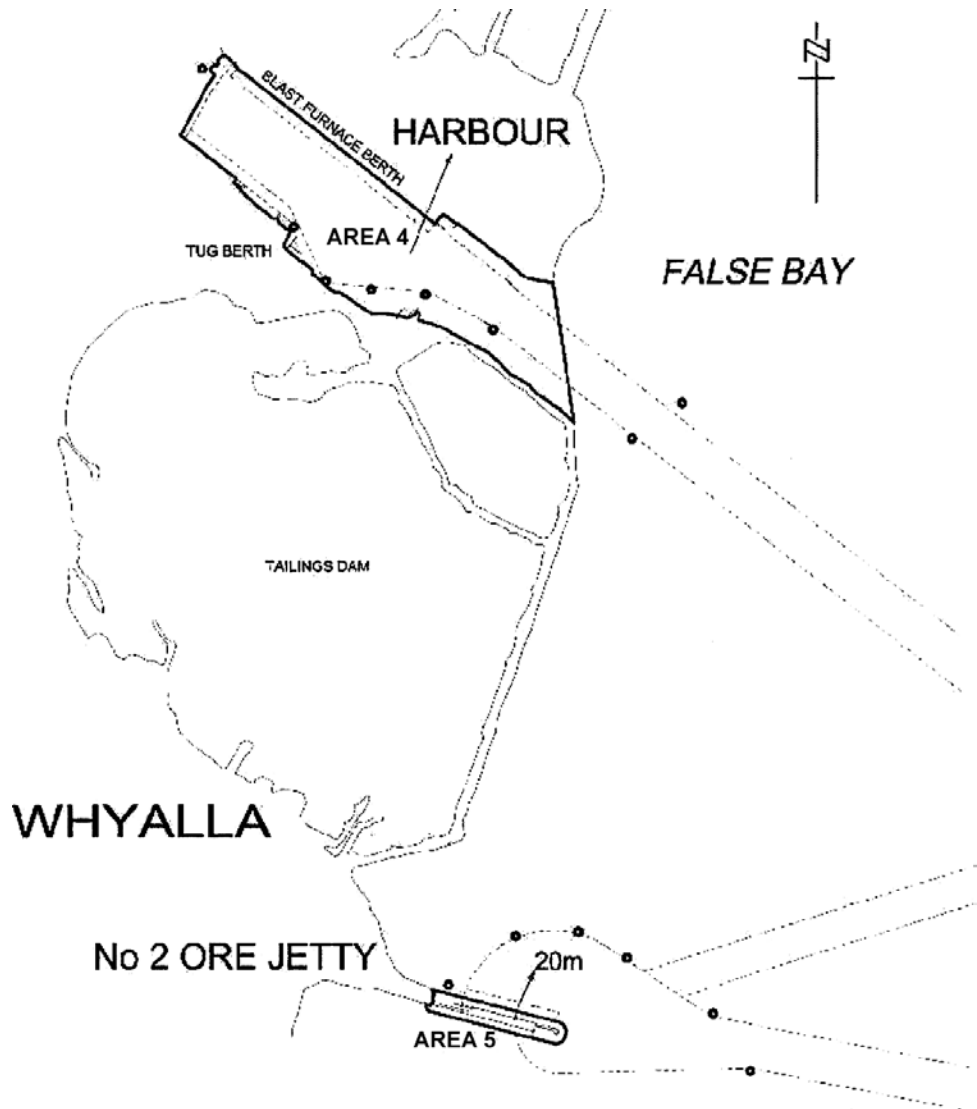


- (13) Schedule 5, entry relating to Whyalla—after the entry relating to Whyalla Area 3 insert:

Area 4: the portion of False Bay at Whyalla described as "Area 4" on the plan below.

Area 5: the portion of False Bay at Whyalla described as "Area 5" on the plan below.

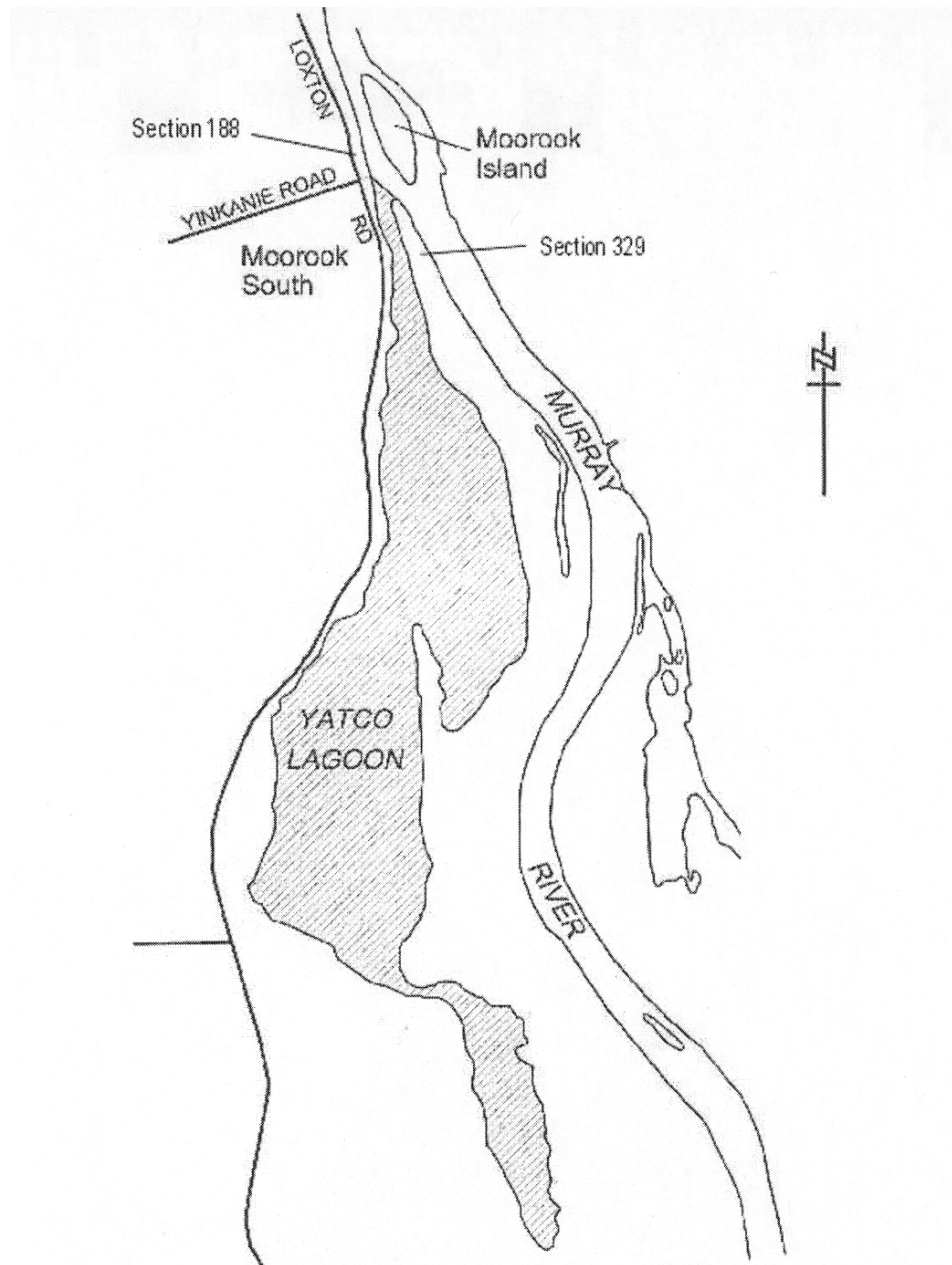
(14) Schedule 5, entry relating to Whyalla—after the plan showing Areas 1, 2 and 3 insert:



(15) Schedule 5—after the entry relating to Whyalla insert:

Yatco Lagoon

The whole of the waters of Yatco Lagoon, being all of the waters to the south of a straight line from the south-eastern corner of Section 188 to the northernmost point of the headland comprising Section 329.



15—Variation of Schedule 10—Speed restrictions in certain waters (Part 10 Division 2)

(1) Schedule 10, clause 2—after paragraph (a) insert:

(aa) **Kingston**

That portion of the waters of Maria Creek seaward of a line 50 metres upstream of, and parallel to, the eastern boundary of the boat ramp, that portion of the waters of Lacipede Bay in the channel between the northern groyne and the southern groyne (extending from Maria Creek to a line drawn between the western-most end of the northern groyne and the navigation light at the western end of the southern groyne) and that portion of the waters of Lacipede Bay within a 75 metre radius of the midpoint of that line.

(2) Schedule 10, clause 2—after paragraph (b) insert:

(ba) **Moonta Bay/Port Hughes**

That portion of the waters of Spencer Gulf between the prolongation seaward of the northern boundary of North Terrace, Moonta Bay, and the prolongation seaward of the southern boundary of the Copper Coast District Council (at South Beach) and within 200 metres seaward of high water mark.

(3) Schedule 10, clause 2—after paragraph (d) insert:

(da) **Wallaroo Bay**

- (i) That portion of the waters of Wallaroo Bay between the prolongation seaward of the southern boundary of Phillips Street, Wallaroo, and the southern breakwater of Copper Cove Marina and within 200 metres seaward of highwater mark;
- (ii) That portion of the waters of Wallaroo Bay between the northern breakwater of Copper Cove Marina and a line extending due west from the northern end of Otago Road, North Beach, and within 200 metres seaward of highwater mark;
- (iii) That portion of the waters of Wallaroo Bay between the prolongation seaward of the southern boundary of Oceanview Drive, North Beach, and the prolongation seaward of the northern boundary of North Beach Road, North Beach.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 4 November 2004

No 231 of 2004

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